IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 11092 of 2003

For Approval and Signature:
HONOURABLE MR.JUSTICE S.R.BRAHMBHATT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ANAND TUKARAM KALGUDE
Versus
DIRECTOR OF TECHNICAL EDUCATION AND ANOTHER

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Appearance :
MS SUSHMA S SHAH for the Petitioner
MR AMIT P PATEL, ASSTT GOVERNMENT PLEADER for Respondent No.1
NOTICE SERVED BY DS for Respondent(s) : 2,
RULE SERVED for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE S.R.BRAHMBHATT

Date : 07/12/2007

ORAL JUDGMENT

1. Ms. Sushma Shah, learned advocate for the petitioner, submits that the petitioner's father died while in service and, therefore, the petitioner was appointed on compassionate ground vide order dated 1/3.10.2002. This appointment was of-course made by the Principal, L.D. Engineering College,

Ahmedabad. However, vide order dated 2.12.2002, the Director of Technical Education informed the Principal of L.D. Engineering College that the application of the petitioner was not acceptable for appointment on compassionate ground. Being aggrieved by the same, the petitioner has preferred this petition.

2. Ms. Sushma Shah, learned advocate for the petitioner, has submitted that the petitioner's father had served the respondent for more than two decades and, in fact, the father of the petitioner was constrained to move a petition, being Special Civil Application No.10377 of 1996, wherein this Court [Coram: S.K. Keshote, J. (as he then was)] was pleased to direct the respondents to pass reasoned order for according the benefit of regularization. Pursuant to the said order, the respondent issued an order dated 30.5.2000 appointing the petitioner's father alongwith others as Hamal on ad-hoc basis on condition that they were to be regularized on proving their suitability for the post. Pursuant to this order, the petitioner's father had been appointed as Hamal and he drew his salary in the prescribed scale.

3. The respondents have not considered these factors and, therefore, the petitioner is deprived of his right flowing from the policy of offering compassionate appointment to the dependent of the Government employee died in harness.

4. Learned advocate Ms. Sushma Shah submits that the respondents be directed to consider these aspects in light of the prevailing and applicable provisions for appointing dependents of deceased Government servants on compassionate ground. The petitioner would make appropriate representation with all relevant documents to the Director of Technical Education, State of Gujarat and the same may be directed to be decided within stipulated time.

5. Mr. Amit Patel, learned Assistant Government Pleader appearing for the respondent State, submitted that there shall be no objection if such a direction is issued. However, if the Court is inclined to issue such direction, then reasonable time be given for deciding the same.

6. In view of the above, the following directions are issued:

(I) The petitioner is at liberty to make a representation in support of his application for compassionate appointment, which was returned by the Director, enlisting all the grounds available justifying the Scheme for being appointed on compassionate ground, within a period of 30 days from today.

(II) Respondent No.1- Director of Technical Education, State of Gujarat is hereby

directed to consider the representation, if any, made by the petitioner in light of the prevailing policy and applicable provisions so far as the petitioner's case for being appointed on compassionate ground is concerned. The entire exercise of considering the representation including that of consulting the State, if needed, shall be over within a period of 90 days from the date of the receipt of the representation from the petitioner.

7. In view of this, Ms. Sushma Shah, learned counsel for the petitioner, seeks permission to withdraw this petition with a liberty to approach this Court again by filing fresh petition, in case, any adverse decision is rendered on the petitioner's representation. Permission as sought for is granted. The petition is disposed of as withdrawn. Rule is discharged. Direct service is permitted.

(S.R.BRAHMBHATT, J.)

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